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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Alan King
Jefferson County Judge of Probate
716 Richard Arrington Boulevard North
Birmingham, Alabama 35203

Probate Judges – Political Parties – Ballots –
Elections

A political party that obtains ballot access for county offices pursuant to section 17-6-22 of the Code of Alabama has established ballot access for all county offices without further petition filings.

Dear Judge King:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

Does ballot access under section 17-6-22(a)(1) of the Code have to be met for each division of Jefferson County and each Jefferson County commission district, or is ballot access for *all* county offices on the ballot in Jefferson County established if the requirements of section 17-6-22(a)(1) are met for the county as a whole?

FACTS AND ANALYSIS

Your request states that the Libertarian Party has filed for ballot access for the November 4, 2014, General Election in Jefferson County. In December 2013, the Libertarian Party submitted 8,765 signatures to the Jefferson County Board of Registrars. The Libertarian Party needed 6,374 signatures to obtain ballot access for county offices. The Jefferson County Board of Registrars informed your office that the Libertarian Party submitted 6,609 valid signatures of registered voters in Jefferson County, and thus, had a sufficient number of signatures to meet the criteria established by law for ballot access for county offices.

You further state that on June 3, 2014, the Libertarian Party submitted a list of candidates to the probate judge to be included on the November 4, 2014, General Election ballot. The list included candidates for the Birmingham Division of Jefferson County, the Bessemer Division of Jefferson County, the Jefferson County sheriff, and all five county commission districts in Jefferson County. These are all county offices. Based on the assertions of the Jefferson County Board of Registrars, your office accepted the list of candidates for the Libertarian Party.

Alabama law provides a two-track system by which a political party may have its name and candidates placed on a ballot for statewide and local elections: (1) a candidate of the party must have garnered at least 20 percent of the votes cast in the last general election for the state or the county; or (2) the political party must have met the signature and petition requirements of section 17-6-22 of the Code of Alabama. ALA. CODE § 17-6-22 & § 17-13-40 (2006); See also, opinion to Honorable Jim Bennett, Secretary of State, dated January 13, 1998, A.G. No. 98-00070.

Section 17-6-22 of the Code states as follows:

(a) No political party, except those qualified as a political party under Chapter 13, shall be included on any general election ballot unless:

(1) The party shall have filed with the Secretary of State or other appropriate official on the date of the first primary election a list of the signatures of ***at least three percent of the qualified electors who cast ballots for the office of Governor in the last general election for the state, county, city, district, or other political subdivision in which the political party seeks to qualify candidates for office***; and unless

(2) The party shall have fulfilled all other applicable requirements of federal, state, or local laws.

(b) The provisions of this section are supplemental to the provisions of Chapter 13, and other laws regarding the conduct of elections in Alabama, and shall repeal only those laws or parts of laws in direct conflict herewith.

ALA. CODE § 17-6-22 (2006) (emphasis added).

Section 17-6-22 is clear that a political party may petition for ballot access at the county level. When a political party succeeds in achieving county access, the party achieves access for each and every county office. This necessarily

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includes not only countywide positions like sheriff, but also county offices that are elected by a district or division, like a county commission seat. Similarly, when a political party achieves statewide ballot access, it has access for all statewide offices as well as state offices representing less than the entire population; for example, a state senate seat.

The unassailability of this conclusion is reinforced by a longstanding policy of the Secretary of State with respect to statewide ballot access. This Office was previously asked whether a political party that obtains ballot access for state offices is also qualified for ballot access for all local offices within the state without further filings for each political subdivision in the state for which the party intends to nominate candidates. Opinions to Honorable Jim Bennett, Secretary of State, dated January 13, 1998, A.G. No. 98-00070 and Honorable Jim Bennett, Secretary of State, dated February 2, 1999, A.G. No. 99-00099. This Office noted that the Secretary of State had a policy that allowed ballot access for all political subdivisions within the state if the political party had established ballot access statewide for state offices and determined that the policy was consistent with the intent of the Legislature. *Id.* Accordingly, even if one viewed a county district or division office as something less than a county office, it would be appropriate to conclude ballot access has been achieved for such offices when county access is achieved.

CONCLUSION

A political party that obtains ballot access for county offices pursuant to section 17-6-22 of the Code of Alabama has established ballot access for all county offices without further petition filings.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact me.

Sincerely,

LUTHER STRANGE
Attorney General
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

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